



**CITY COUNCIL AGENDA
DECEMBER 6, 2016 – 6:00 P.M.
116 SOUTH MAIN STREET**

All Times Listed are Estimates. At the Discretion of the Mayor and Council Times May be Adjusted.

- 1) Call to Order**
- 2) Pledge of Allegiance**
- 3) Roll Call**
- 4) (A) Presentations:**
- 4) (B) Board/Commission/Committee Appointments**
- 5) City Council Agenda Requests and Announcements**
- 6) Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Please sign up with the City Clerk prior to the meeting. Council may not be able to provide an immediate answer, but will direct staff to follow-up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 7) Consent Agenda**

Note: All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council. **(Est. time-3 min)**

 - A.** Approval of the November 15, 2016 City Council Meeting Minutes
 - B.** Approve the Contract Change Order to the 2016 Water Department Saddle Tap Replacement Project that was Awarded to Plowman Excavating, Inc., of Fountain, Colorado at the October 11, 2016 Council Meeting in the Change Order Amount not to exceed \$9,957.00.
- 8) Old Business**

NONE
- 9) New Business**
 - A.** Consideration of Items Removed from the Consent Agenda

- B.** Approval of A Memorandum Of Understanding With The Colorado Energy Office For Technical Assistance With Performance Contracting(**Scott Trainor**)(**5 Min**)
- C.** City Council Update, Pueblo Dam Hydroelectric Project (**Curtis Mitchell**)(**10 Min**)
- D.** First Reading of Ordinance 1680, An Ordinance Amending Ordinance No. 1661 Authorizing The City Of Fountain, Colorado Acting By And Through Its City Of Fountain Electric, Water And Wastewater Utility Enterprise, Water Revenue Bonds, Series 2015, In The Aggregate Principal Amount Of Not To Exceed \$4,500,000, To Provide For The Financing Of Additional System Improvements By Such Bonds; Authorizing Officials Of The City To Take All Action Necessary To Carry Out The Transactions Contemplated Hereby; Authorizing The Approval Of Necessary Documents And Related Matters (**Don Yucuis**)(**5 Min**)

10) Correspondence, Comments and Ex-Officio Reports

11) Announcement of Executive Sessions

In accordance with the City Charter and the Colorado Open Meetings Act, the City Council open session is to determine whether it will hold a Closed Executive Session. A Closed Executive Session may be held upon an affirmative vote of two-thirds of the quorum present. If consent to the closed Executive Session is not given, the items may be discussed in open session or withdrawn from consideration.

12) Adjourn

A (Administrative Action) QJ (Quasi-Judicial Action) L (Legislative Action)

**NEXT REGULAR COUNCIL MEETING
December 20, 2016**

Posting Date:



Regular City Council Meeting

Consent – 7A
Council Meeting Minutes

December 6, 2016

Summary Information

Title:

Approval of the November 15 , 2016 City Council Meeting Minutes

Initiator : City Clerk

Presenter: Silvia Huffman, City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The attached minutes were compiled as the result of the November 15, 2016 City Council Meeting Minutes

Attachments: November 15, 2016 City Council Meeting Minutes

Background Information

N/A

Recommendation

Approve the November 15, 2016 City Council Meeting Minutes

Proposed Motion

Motion to approve shall be included under the consent agenda.

S.T.
CM Review

CITY COUNCIL MEETING
November 15, 2016

1) Call to Order

Mayor Ortega called the meeting to order at 6:00 P.M.

2) Pledge of Allegiance

The Pledge of Allegiance

3) Roll Call

Roll call found the following members present:

Mayor Ortega
Mayor Pro Tem Thomas
Council Member Lauer
Council Member Thompson
Council Member Gieck
Council Member Applegate

Council Member Coke notified staff of his absence.

Mayor Ortega introduced the National Honor Society students that were in attendance.

4) Special Presentations & Declarations:

Council Member Thompson read a proclamation declaring November 26, 2016 as Small Business Saturday as a motion to approve, seconded by Mayor Pro Tem Thomas. All members voted yes (6-0); the motion carried.

Jennifer Stewart, Economic Development Intern introduced the members of the Citizens Academy and congratulated them on graduating the program.

Mayor Ortega presented the Academy members with City of Fountain t-shirts and certificates. Council thanked each of them for their dedication to the program.

(B) Board/Commission/Committee Appointments

There were no appointments.

5) City Council Agenda Requests and Announcements

Council Member Thompson thanks the Fire Department on their attention to the fire in Adams Open Space recently. She also reported her attendance at the Purple Hearts Thanksgiving event.

Mayor Ortega stated that he, Council Member Thompson and Utility Director Mitchell attended the water contamination meeting and is thankful that the water in Fountain is still safe. He also reported on his meeting with the 2nd Brigade and Colonel Mason noting the great relationship with the City of Fountain. He reminded all in attendance about the upcoming tree lighting at the Mayor's Park.

6) Public to be Heard

Deborah Stout Meininger, resident stated she enjoyed being part of the Citizens Academy. She also noted her concern with what will be done with the silt from Big Johnson reservoir

7) Consent Agenda

- A. Approval of the October 25 and November 1 City Council Meeting Minutes**
- B. Resolution No. 16-034, A Resolution Approving The 2015 Financial Statement Audit For The El Paso County Emergency Services Authority**
- C. Resolution No. 16-039, A Resolution Approving The Budget For 2017 For The El Paso County Emergency Services Authority**

Mayor Pro Tem Thomas made a motion to approve the consent agenda, seconded by Council Member Applegate. All members voted yes (6-0); the motion carried.

8) Old Business

- A. Second Reading of Ordinance 1682, An Ordinance Setting Appropriations for the Offices and Departments of the City of Fountain, Colorado for the Fiscal year 2017**

Finance Director Yucuis stated that all the amendments that were approved on second reading have been incorporated in this ordinance and is ready for consideration.

Council Member Gieck asked about the cost to subsidize the ambulance fund.

Public Safety Director Heberer reported that with the hire of 3 new firefighters, addition of new per diem firefighters and the intention of receiving a 100k grant coverage and response times will be improved.

Council Member Thompson noted a correction that was previously discussed under appendix A noting it is opposite from what is shown.

Council Member Lauer made a motion to approve Ordinance 1682 on second reading, seconded by Mayor Pro Tem Thomas. All members except Council Member Thompson voted yes (5-1); the motion carried.

Council Member Thompson stated that although she is excited about the dedication to public safety she is still concerned about supplementing the budget with funds from reserves.

9) New Business

A. Consideration of Items Removed from the Consent Agenda

There were no items removed.

B. Resolution No. 16-035, A Resolution Of The City Of Fountain, Colorado, In Support Of The Grant Application For A Local Parks And Outdoor Recreation Planning Grant From The State Board Of The Great Outdoors Colorado For The "Blast Park."

City Manager Trainor reported on his intent to apply for a grant to help with the planning of the newly acquired Blast Park.

Council Member Gieck made a motion to support the application, seconded by Council Member Thompson. All members voted yes (6-0); the motion carried.

C. Resolution No. 16-036, A Resolution Adopting a Budget for Fiscal Year 2017, Assessing Levies on Taxable Property, and Certifying Levies to El Paso County

Finance Director Yucuis stated that this requirement is routine to assess levies and certify with El Paso County.

Council Member Lauer made a motion to approve Resolution 16-036, seconded by Mayor Pro Tem Thomas. All members voted yes (6-0); the motion carried.

D. Resolution No. 16-037, A Resolution Amending the City of Fountain, Colorado Fiscal Year (FY) 2016 Budget

Finance Director Yucuis reported that this budget amendment will be reviewed again by Ordinance at the end of the year. This allows the City to expend the funds that were received by the School District during the transaction for the Lorraine building acquisition.

Council Member Thompson stated she believed these funds were to reduce the loan amount and not to be utilized toward the renovation of the building.

Mayor Pro Tem Thomas asked if this project is already over budget.

Finance Director Yucuis reported that it is not over budget, without approval of this item the work to the building would not be completed.

Council Member Applegate made a motion to approve Resolution 16-037, seconded by Council Member Gieck. All members voted yes (6-0); the motion carried.

E. Resolution No. 16-038, A Resolution Supporting the Grant Application for a Local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado Trust Fund and the Completion of Prairie Heights Elementary Playground

City Clerk Huffman reported that Hanover School District 28 has requested sponsorship from the City to apply for a Local Park and Outdoor Recreation grant to upgrade the playground at their elementary school. GOCO requires a sponsor to apply for this type of grant. She stated that the City will not be subject to any payment but would need to enter into an agreement if the grant is awarded as required by GOCO.

Council Member Gieck made a motion to approve Resolution 16-038, seconded by Council Member Applegate. All members voted yes (6-0); the motion carried.

10) Correspondence, Comments and Ex-Officio Reports

Public Safety Director Heberer reported on the great mutual aid received from multiple agencies during the recent fire.

City Clerk Huffman reported on the progress of the Vet's Memorial wall and the install of the fence in the Blast Park.

11) Announcement of Executive Sessions

There were no executive sessions requested.

12) Adjourn

There being no further business Mayor Ortega declared the meeting adjourned at 6:53 P.M.

City Clerk

Mayor



Regular City Council Meeting

Consent – 7B

December 6, 2016

Summary Information

Title:

Approve the Contract Change Order to the 2016 Water Department Saddle Tap Replacement Project that was awarded to Plowman Excavating, Inc., of Fountain, Colorado at the October 11, 2016 Council Meeting in the Change Order Amount not to exceed \$9,957.00.

Initiator: Michael Fink, P.E.

Presenter: Curtis Mitchell, P.E., Utilities Director

Legal Review: Yes No

Council Action

Council Information

Report to Council

The purpose of this item is to Authorize the City Manager to Execute the Contract Change Order for the 2016 Water Department Saddle Tap Replacement Project that was awarded to Plowman Excavating, Inc., of Fountain, Colorado with the Change Order Amount not to exceed \$9,957.00.

Attachments:

Change Order #1 (2 pages)

Background Information

Council had acted at the October 11, 2016 Meeting to Award the Construction Contract for the 2016 Water Department Saddle Tap Project to Plowman Excavating, Inc., of Fountain, in the amount not to Exceed \$64,000.00; the Contract Amount was \$62,160.00, with a contingency of \$1,840.00 (3 %). This was for replacing 21 Saddle Taps along Rancher Drive.

The Saddle Taps were originally bid at \$2,960.00 per unit installation. There were potential additional expenses that would be confirmed if necessary for additional excavation, replacement of curbing and sidewalk and additional paving. These would all be only considered if the City of Fountain Water Inspector confirmed that Changed Conditions existed that merited the additional expense.

As the Project progressed, five locations required additional excavation in the street, additional backfill and additional paving to finish the Project. The Water Inspector confirmed that a total of 102 Cubic Yards of additional excavation and backfill (over and above the contracted volumes) and 456 additional square feet of 4" pavement was merited, since the actual saddle tap locations at these five connections were imprecise. The Contractor had included unit prices for Excavation and Backfill and for Additional Pavement; standard conditions for Excavation, Backfill and Pavement were included in the Base Unit Price Bid for Each Saddle Tap. The Bid Unit Price for Additional Excavation & Backfill is \$77.50 per Cubic Yard and the Bid Unit Price for Additional Pavement was \$4.50 per Square Foot. This resulted in an additional cost of \$9,957.00, or about 15.5% more than Base Bid. The Final Contract Amount, including this single Change Order, would be \$72,117.00.

The Water Utility Staff recommends that this Change Order be confirmed; the additional expense is merited due to Changed Conditions from the Bid Information, confirmed in the field by the Water Inspector.

Recommendation

The Utilities staff recommends that the Council authorize the City Manager to execute the Contract Change Order for the 2016 Water Department Saddle Tap Replacement Project to Plowman Excavating, Inc., of Fountain, Colorado with the Contract Change Order Amount not to exceed \$9,957.00.

Proposed Motion

"I recommend the Council authorize the City Manager to execute the Contract Change Order for the 2016 Water Department Saddle Tap Replacement Project to Plowman Excavating, Inc., of Fountain, Colorado with the Contract Change Order Amount not to exceed \$9,957.00.

ST

CM Review

CHANGE ORDER

PROJECT: 2016 Water Saddle Tap Replacement Project

CHANGE ORDER NUMBER: One (1)

INITIATION DATE: November 23, 2016

CONTRACT DATE: October 11, 2016

TO: Plowman Excavating, Inc.
P.O. Box 188
Fountain, Colorado 80817
719-382-8823



The following Changes are to be made to this Contract:

Additional Excavation & Backfill, 102 Y ³ at \$77.50/Y ³ (Bid Price) =	\$7,905.00
Additional Pavement Patch, 456 F ² at \$4.50/F ² (Bid Price) =	\$2,052.00
Total Not to Exceed =	\$9,957.00
Total Change to Contract Amount (not to exceed) =	\$9,957.00

TOTAL AMOUNT OF THIS CHANGE	\$9,957.00
CHANGE TO SCHEDULE	+0 Days

Budget Summary:

The Original Contract Price was	\$62,160.00
Net Change by previously authorized Change Orders	\$0.00
The Contract Price prior to this Change Order was	\$62,160.00
The Contract Price will be increased by this Change Order	\$9,957.00
The Contract Price including this Change Order will be	\$72,117.00

Schedule Summary:

The Original Contract Commencement Date was	October 19, 2016
The Original Contract Elapsed Time was	150 Days
Change by previously authorized Change Orders	+/- 0
The Contract Completion Date prior to this Change Order was	January 17, 2017
The Contract Elapsed Time will be increased by this Change Order	+0 Days
The Contract Total Elapsed Time will be	150 Days
The Contract Completion Date including this Change Order will be	January 17, 2017

Approved:

The City of Fountain
116 South Main Street
Fountain, Colorado 80817

By: _____ Date: _____

Accepted:

Plowman Excavating, Inc.
P.O. Box 188
Fountain, Colorado 80817

By: _____ Date: _____



Regular City Council Meeting

New Business – 9A

Items Removed from Consent

December 6, 2016

Summary Information

Title:

Consideration of Items Removed from the Consent Agenda

Initiator : City Clerk Huffman

Presenter: Silvia Huffman, City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Any Items removed from the Consent agenda for further discussion shall be heard under this item

Background Information

N/A

Recommendation

N/A

Proposed Motion

ST

CM Review



Regular City Council Meeting

New Business – 9B

December 6, 2016

Summary Information

Title:

APPROVAL OF A MEMORANDUM OF UNDERSTANDING WITH THE COLORADO ENERGY OFFICE FOR TECHNICAL ASSISTANCE WITH PERFORMANCE CONTRACTING. (5 MINUTES)

Initiator : Scott Trainor, City Manager

Presenter: Scott Trainor, City Manager

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The purpose of this action item is for the Council to approve a Memorandum of Understanding (MOU) with the Colorado Energy Office (CEO).

Attachments: MOU with the CEO

Background Information

The City has been exploring, for quite some time, the potential opportunities around the concept of performance contracting for the improvement of City facilities. Under this concept, the City would enter into an agreement with an Energy Service Company (ESCO) to evaluate and audit City facilities to identify areas of inefficiency (such as high energy costs, high water usage, etc.), along with potential cost savings if those issues were fixed. If such issues are identified, the City and ESCO can then enter into an agreement whereby the ESCO fixes the issues, funded through the City's cost savings.

This concept has been highly successful for over 20 years. In the State of Colorado, the Colorado Energy Office (CEO) has implemented a program whereby they will assign a staff member to work with the City of Fountain as we go through this process. The staff person would serve as a technical advisor, at no cost to the City. Additionally, if we enter into this program with the State, the ESCO will be required to provide a contractual guarantee for the projected energy cost savings, thereby ensuring that if the City moves forward with a project it will be able to be funded through the savings. If the projections are incorrect and the City does not experience the projected cost savings, the ESCO is obligated to fund the difference.

In order to move forward with a viable performance contract project, the City has had Siemens conduct a preliminary feasibility study. This study has indicated that Siemens does believe that the City has a viable project. The next steps would be as follows:

1. Enter into an MOU with the Colorado Energy Office. This is the current step in front of the Council.
2. Contract with the ESCO to conduct a Technical Energy Audit. This would come to the Council in December.
3. If the Audit determines that there is, indeed, a viable project, the City would contract with the ESCO to complete the project.
4. Once the project is complete, the Colorado Energy Office would assist the City with measurement and verification of guaranteed savings.

Recommendation

The way that this program is structured, there is really no downside for the City. There are no costs to the City to enter into the State program to receive their technical assistant and, because of the performance guarantee the City would only be expending cost savings to fund the facility improvements (assuming that a viable project is identified).

The recommendation would be to move forward with this MOU. We will then work with our State-assigned staff member to work through the technical aspects of the next steps (identified above). We will be coming back to the City Council at least three more times on this project, if we move forward, so there will be multiple contact points along the way.

Proposed Motion

A suggested motion would be "I move to approve the Memorandum of Understanding with the Colorado Energy Office for the purpose of conducting a performance contract project."

ST

CM Review



COLORADO
Energy Office
Energy Performance Contracting

MEMORANDUM OF UNDERSTANDING

between the CEO and City of Fountain, CO

Updated August 2016

Overview

One hallmark of success in the Colorado Energy Office's (CEO's) Energy Performance Contracting Program (EPC) is the support provided by one of CEO's EPC project consultants to each and every EPC project. A CEO EPC project consultant provides coaching and technical assistance to the Facility Owner every step of the way to ensure that the Colorado Energy Performance Contracting Program is a successful experience for all.

The EPC Program brochure describes Colorado's Standards for Success for the relationship between CEO and its clients and their energy service company. It also outlines the coaching and technical assistance provided Program participants **at no charge** throughout the life cycle of an EPC project. CEO does this to ensure a successful experience through what can be an involved technical, legal and financial process.

In addition, CEO offers standardized program contracts and processes and a pool of pre-qualified Energy Service Companies to make EPC projects even more approachable.

To benefit from this package of coaching and technical assistance, please:

1. Have the authorized signer from your state agency or local jurisdiction sign the following non-binding Memorandum of Understanding;
2. Complete the attached Facility Owner Information sheet; and
3. Return the paperwork to Matthew Robinson, Energy Performance Contracting Program Engineer at matthew.robinson@state.co.us or the address below. Should you have any questions or concerns, his direct phone number is 303.866.2660.

Best wishes for your venture into energy and cost savings!



MEMORANDUM OF UNDERSTANDING
between the COLORADO ENERGY OFFICE
and CITY OF FOUNTAIN, CO

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between the STATE OF COLORADO (the “State”), acting by and through the Colorado Energy Office (the “CEO”), and CITY OF FOUNTAIN, CO (the “Facility Owner”). “Party” means the State, CEO or Facility Owner and “Parties” means both the State/CEO and the Facility Owner.

RECITALS

WHEREAS, in compliance with the State Procurement Code as set forth in section 24-101-101, *et seq.*, C.R.S. and any applicable public bidding requirements, the CEO issued a Request for Proposals (“RFP”) to energy service companies (“ESCOs”) to provide as needed energy performance contract services for its Energy Performance Contracting Program; and

WHEREAS, as a result of the RFP process, CEO maintains a list of pre-qualified ESCOs that are eligible for final selection by State agencies and local governments and/or municipalities to provide energy performance contracting services; and

WHEREAS, the purpose of this MOU is to provide the Facility Owner with access to the services and support of the CEO’s Energy Performance Contracting (“EPC”) Program; and

WHEREAS, in furtherance of the purpose of this MOU, the CEO is available to assist the Facility Owner with the development and implementation of EPC projects, as well as to encourage the Facility Owner to adhere to the guidelines of the EPC Program.

NOW, THEREFORE, for and in consideration of the mutual covenants and the representations and covenants contained herein, the parties hereto agree as follows:

- 1. Effective Date of MOU.** This MOU shall become effective upon the later date on which the Director or authorized designee of CEO, or the representative for the Facility Owner has signed it.
- 2. Term of MOU.** The Parties’ respective performances under this MOU shall commence on the Effective Date and remain in effect through the term of services contracted from a pre-qualified ESCO.
- 3. Responsibilities of the CEO and the EPC Program to Facility Owner.** The responsibilities of the CEO and the EPC Program include, but are not limited to:
 - a. Upon execution of this MOU, CEO will assign an EPC project consultant to provide advice and technical assistance throughout the lifecycle of Facility Owner’s project.
 - b. CEO will provide the Facility Owner with information on the CEO website regarding the pre-approved, pre-qualified list of ESCOs, which includes links to the ESCOs’ website for further information;
 - c. CEO will assist Facility Owner to procure the services of an ESCO from the pre-qualified list of approved ESCOs;

- d. CEO will assist the Facility Owner with technical guidance in order to develop and execute a Technical Energy Audit and Project Proposal Contract with a pre-qualified ESCO and also support the Facility Owner with any amendments thereof;
- e. CEO will provide technical guidance to the Facility Owner and attend on-site meetings between the Facility Owner and ESCO, as needed and subject to availability;
- f. CEO will assist the Facility Owner to develop and initiate an energy performance contract project;
- g. CEO will monitor project implementation for audits and for energy performance contract projects;
- h. CEO will facilitate the energy performance contract process to ensure commitments are met by both the ESCO and the Facility Owner;
- i. CEO will review Facility Owner's audits, proposals, calculations, contracts and measurement and verification reports;
- j. As required for school districts and requested by other public agencies, the CEO will complete a construction walk-through of project facilities prior to the "Notice of Substantial Completion" documents being finalized;
- k. If applicable, CEO will identify possible solutions to mediate any conflicts between the Facility Owner and the ESCO.

5. Responsibilities of the Facility Owner. The responsibilities of the Facility Owner include:

- a. By executing this MOU, Facility Owner agrees to program participation in CEO's EPC Program and engage the CEO for assistance in all stages of the EPC Program, including project development;
- b. Using a secondary selection process, Facility Owner agrees to select an ESCO from CEO's current pre-qualified list of ESCOs and which meets the requirements of Facility Owner's procurement rules, regulations and statutes (if applicable);
- c. Facility Owner will provide information as needed for the feasibility study/technical energy audit and any other project development activities;
- d. Facility Owner will review/approve the ESCO's proposals, designs and reports in a timely manner;
- e. Facility Owner agrees to execute CEO approved contracts with the ESCO;
- f. Facility Owner agrees to arrange for project financing, and with the assistance and advice of legal counsel, execute appropriate financing documents and EPC contract;
- g. Facility Owner agrees to provide project management;
- h. Facility Owner will endeavor to work with the pre-qualified ESCO to develop and refine project parameters and any other project development activities;
- i. Facility Owner will assign its staff, employees, representatives to the facility project team including operations, maintenance, financial and upper management personnel;
- j. Depending on the subject matter to be discussed, Facility Owner will ensure appropriate personnel attend project development meetings;

- k. Facility Owner will provide access to and escort ESCO, its subcontractors and CEO to buildings during mutually agreed-upon hours;
- l. If Facility Owner is a school district, Facility Owner agrees to allow CEO to complete a construction walk-through of project facilities prior to the "Notice of Substantial Completion" documents being finalized;
- l. During project reviews and any other reviews, Facility Owner will endeavor to address CEO's recommendations;
- m. As requested by CEO and as needed, Facility Owner agrees to provide CEO with information regarding measurement and verification activities.

6. THIS MOU IS NOT INTENDED TO CREATE, NOR WILL THIS MOU BE CONSTRUED OR INTERPRETED AS CREATING A LEGALLY BINDING AND ENFORCEABLE CONTRACT BETWEEN THE PARTIES. IN THE EVENT EITHER PARTY FAILS TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU, THERE WILL BE NO LEGAL OR EQUITABLE REMEDIES AVAILABLE TO EITHER PARTY. THE SOLE REMEDY AVAILABLE TO THE PARTIES FOR FAILURE TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU IS TO TERMINATE THIS MOU. THE FACILITY OWNER ACKNOWLEDGES AND AGREES THAT CEO'S SERVICES MAY INCLUDE ADVICE AND RECOMMENDATIONS, BUT ALL DECISIONS IN CONNECTION WITH THE FACILITY OWNER'S EPC PROJECT SHALL BE THE SOLE RESPONSIBILITY OF THE FACILITY OWNER, ITS AGENTS AND CONTRACTORS.

7. Signatures. IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date.

STATE OF COLORADO, acting by and through the COLORADO ENERGY OFFICE		FACILITY OWNER:	
_____ Jeffrey Ackermann Director	_____ Date	_____ Scott Trainor City Manager	_____ Date
_____ Matthew K. Robinson Program Engineer	_____ Date		



FACILITY OWNER INFORMATION

for CEO use only

Owner's representative

Name

Title

Mailing address

Email address

Direct office phone

Cell phone

Project information

Types of facilities to be assessed for energy savings:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Have you selected an ESCO?

Yes. Name:

No

Please list any immediate needs you have related to your performance contract.



Regular City Council Meeting

New Business – 9C

December 6, 2016

Summary Information

Title:

City Council Update, Pueblo Dam Hydroelectric Project

Initiator : Curtis Mitchell

Presenter: Curtis Mitchell

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Background Information

Recommendation

ST

CM Review



Regular City Council Meeting

New Business –9D

December 6, 2016

Summary Information

Title:

FIRST READING OF ORDINANCE 1680 AN ORDINANCE AMENDING ORDINANCE NO. 1661 AUTHORIZING THE CITY OF FOUNTAIN, COLORADO ACTING BY AND THROUGH ITS CITY OF FOUNTAIN ELECTRIC, WATER AND WASTEWATER UTILITY ENTERPRISE, WATER REVENUE BONDS, SERIES 2015, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,500,000, TO PROVIDE FOR THE FINANCING OF ADDITIONAL SYSTEM IMPROVEMENTS BY SUCH BONDS; AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; AUTHORIZING THE APPROVAL OF NECESSARY DOCUMENTS AND RELATED MATTERS

Initiator : Finance Director

Council Action

Presenter: Finance Director

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

This Ordinance approves adding an additional purpose for use of the 2015 bond proceeds: (f) improvements to the System’s well facilities including, but not limited to, costs association with planning and construction of a water treatment facility.

Attachments: Ordinance No. 1680 first reading.

Background Information

Ordinance 1661 prepared by Ken Guckenberger of Kutak Rock was approved on October 27, 2015 and approved the issuance of its Water Revenue Bonds, Series 2015, for the purpose of financing the construction of certain capital projects as described herein, funding the reserve account, if necessary, and (a) construction of a portion of the Southern Delivery System Project, (b) purchase of certain water rights, (c) replacement or construction of certain water mains, (d) installation of a Supervisory Control and Data Acquisition project for the City’s water system, and (e) purchase of or engineering and designing of a new water building facility.

The recent PFC issues and the need to treat water at the well prompted staff to reprioritize the 2016 water projects and include the improvements to the System’s well facilities.

Recommendation

Approve Ordinance No. 1680 on first reading.

Proposed Motion

“I make a motion to approve Ordinance No. 1680 on first reading”

ST
CM Review

ORDINANCE NO. 1680

AN ORDINANCE AMENDING ORDINANCE NO. 1661 AUTHORIZING THE CITY OF FOUNTAIN, COLORADO ACTING BY AND THROUGH ITS CITY OF FOUNTAIN ELECTRIC, WATER AND WASTEWATER UTILITY ENTERPRISE, WATER REVENUE BONDS, SERIES 2015, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,500,000, TO PROVIDE FOR THE FINANCING OF ADDITIONAL SYSTEM IMPROVEMENTS BY SUCH BONDS; AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; AUTHORIZING THE APPROVAL OF NECESSARY DOCUMENTS AND RELATED MATTERS

WHEREAS, the City of Fountain, Colorado is a municipal corporation duly organized and operating as a home-rule city under Article XX of the State Constitution and the Charter of the City (the "Charter"); and

WHEREAS, the City is the owner and operator of an electric and water system and is authorized to own and operate a wastewater system, which electric and water system has historically been operated on a self-supporting basis by the City, is considered to be a government-owned business and is generally known as the "City of Fountain Electric, Water and Wastewater Utility Enterprise" of the City; and

WHEREAS, the City is acting hereunder by and through its "City of Fountain Electric, Water and Wastewater Utility Enterprise" under the Charter; and

WHEREAS, in order to provide for the acquisition, construction, and installation of certain improvements and to finance the costs associated therewith, the City previously issued its Water Revenue Bonds, Series 2015, in the aggregate principal amount not to exceed \$4,500,000 (the "Bonds") pursuant to Ordinance No. 1661 (the "Original Ordinance"); and

WHEREAS, since the adoption of the Original Ordinance, the City has incurred additional water treatment obligations and desires to use proceeds of the Bonds to make additional improvements to its System (as such term is defined in the Original Ordinance), specifically its well facilities, including, but not limited to, the costs associated with planning and construction of a water treatment facility; and

WHEREAS, after consideration, the City has determined that the amendment of the Original Ordinance of the Bonds upon the terms and conditions set forth herein is in the best interests of the City; and

WHEREAS, none of the members of the City Council have any potential conflicting interests in connection with the authorization, issuance, or sale of the Bonds, or the use of the proceeds thereof; and

WHEREAS, there has been presented to this meeting of the Board: (a) this Ordinance; (b) an Amended Tax Compliance Certificate governing issues related to the Bonds under the Internal Revenue Code of 1986 (the "Amended Tax Compliance Certificate"); and (c) such other resolutions, agreements and certificates as may be necessary and appropriate in connection with the issuance of the Bonds; and

WHEREAS, the City Council desires to authorize the execution and delivery of this Ordinance as provided herein and the execution of the foregoing documents; and

BE IT ORDAINED BY THE CITY COUNCIL OF FOUNTAIN, COLORADO:

Ratification of Actions. All actions heretofore taken, not inconsistent with the provisions of this Ordinance, by the Council or the officers of the City, directed toward undertaking improvements to the System's well facilities including, but not limited to, costs association with planning and construction of a water treatment facility, are hereby ratified, approved and confirmed.

Amendment of Definitions. Section 1 of the Original Ordinance is hereby amended by adding a new clause (f) to the definition of "Project" as follows:

"Project" means (a) construction of a portion of the Southern Delivery System Project, (b) purchase of certain water rights, (c) replacement or construction of certain water mains, (d) installation of a Supervisory Control and Data Acquisition project for the City's water system, (e) purchase of or engineering and designing of a new water building facility, and (f) improvements to the System's well facilities including, but not limited to, costs association with planning and construction of a water treatment facility.

Other Provisions of Original Ordinance Unaffected. The Original Ordinance shall remain in full force and effect, except as expressly amended hereby.

Approval of Amended Tax Compliance Certificate. The execution and delivery of the Amended Tax Compliance Certificate is hereby approved, authorized and directed. The Amended Tax Compliance Certificate shall be in substantially the form presented to this meeting of the City Council, with such appropriate variations, not inconsistent herewith, as may be approved by the City Attorney or the City's bond counsel.

Severability. In the event any provision of this Ordinance shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Repealer. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

Effective Date; Recording and Authentication. This Ordinance shall be in full force and effect five days after final publication, following final passage. This Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and the City Clerk, and shall be published in accordance with law.

[Remainder of Page Left Intentionally Blank]

Introduced, read by title and passed on first reading this 6th day of December, 2016 by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk, together with a statement that the Ordinance is available for public inspection and acquisition in the office of the City Clerk in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain.

[SEAL]

CITY OF FOUNTAIN, COLORADO

Attest:

By: _____
City Clerk

By: _____
Mayor

INTRODUCED, READ BY TITLE ONLY, AND PASSED ON SECOND AND FINAL READING on the _____ day of _____, 2016, and ORDERED PUBLISHED BY TITLE ONLY in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

[SEAL]

CITY OF FOUNTAIN, COLORADO

Attest:

By: _____
City Clerk

By: _____
Mayor

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

I, Clerk to the City Council of City of Fountain, Colorado, acting by and through the City of Fountain Electric, Water and Wastewater Utility Enterprise (the "City"), do hereby certify that:

1. Attached is a true and correct copy of an ordinance (the "Ordinance") adopted by the City Council (the "City Council") at a regular meeting held on December 6, 2016.

2. Notice of such meeting was posted in a public place within the boundaries of the City designated by the City Council for the posting of notices of meetings of the City Council no less than 24 hours prior to the holding of the meeting.

3. The Ordinance was duly moved, seconded and adopted at such meeting by the affirmative vote of a majority of the members of the City Council as follows:

<u>Council Member</u>	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstaining</u>
Gabriel Ortega, Mayor	_____	_____	_____	_____
Phil Thomas, Mayor Pro Tem	_____	_____	_____	_____
Sharon Thompson	_____	_____	_____	_____
Jim Coke	_____	_____	_____	_____
Sam Gieck	_____	_____	_____	_____
Greg Lauer	_____	_____	_____	_____
Richard Applegate	_____	_____	_____	_____

4. The Ordinance was duly approved by the City Council, signed by the Mayor, sealed with the City's seal, attested by the City Clerk and recorded in the minutes of the City Council.

5. The meeting at which the Ordinance was adopted was noticed, and all proceedings relating to the adoption of the Ordinance were conducted in accordance with all applicable bylaws, rules, regulations and ordinances of the City, in accordance with the normal procedures of the City relating to such matters, and in accordance with applicable constitutional provisions and statutes of the State of Colorado and all other applicable laws.

WITNESS my hand and the seal of the City this 6th day of December, 2016.

Clerk to the City Council

[SEAL]